

Congress of the United States
Washington, DC 20510

December 23, 2002

The Honorable
John D. Ashcroft
Attorney General of the United States
U.S. Department of Justice
10th Street and Constitution Avenue, N.W.
Washington, DC 20510

Dear Mr. Attorney General:

We write to urge you to suspend further implementation of the National Security Entry-Exit Registration System (NSEERS) by the U.S. Department of Justice Immigration and Naturalization Service (INS) until Congress and the Department conduct a complete and thorough review of this program. We have grave doubts about whether the INS's implementation of NSEERS has struck the proper balance between securing our borders on the one hand and respecting the civil liberties of foreign students, businesspeople, and visitors who have come to our nation legally on the other.

Rather, this special registration program appears to be a component of a second wave of roundups and detentions of Arab and Muslim males disguised as a perfunctory registration requirement. Reports indicate that hundreds of individuals who have voluntarily appeared to register at INS offices around the country (but primarily in California) have been arrested and detained without reasonable justification. According to news reports, many of those detained have applications pending for adjustment of status on which the INS has not yet acted.

For example, according to a news report, a 16 year old boy who entered the country lawfully on a student visa was separated from his pregnant mother, even though he is seeking permanent residency to be able to join his mother, who is a permanent resident, and stepfather, who is a US citizen, in America. According to another report, a successful Iranian Jewish businessman, who had fled Iran and believed he could find freedom and security in America, was arrested and jailed even though he has had an application for permanent residency pending with the INS for five years. It is unjust to penalize and detain people who have a claim to lawful status when, in many cases, it is the INS processing backlog that has caused the delay in approving status-adjustment applications.

We are also concerned by reports that detainees have been denied access to counsel and are being held in deplorable conditions, including being deprived of food for more than 24 hours and being forced to sleep on cold floors.

These reports are all the more troubling because this new program comes one year after the Department launched its first roundup and detention of mostly Arab and Muslim men, the vast majority of whom were detained for immigration violations and ultimately cleared of any involvement in terrorist activity. You have so far failed to identify most of the hundreds of individuals arrested and detained in the wake of September 11 or their counsel. This pattern of targeting persons for arrest based on race, religion, ethnicity, or national origin rather than on specific evidence of criminal activity or connections with terrorist organizations only serves to undermine the trust of the American people, especially the Arab and Muslim American communities whose cooperation we need more than ever to protect our nation.

Furthermore, we are concerned about the interview stage of the NSEERS special registration program. We understand that information is sought on the individual's credit card, bank account, and video rental card numbers, and, for those on student visas, on affiliation with campus political and religious groups and names of roommates. These questions raise serious privacy and constitutional concerns.

We request that you immediately provide to us and release publicly information about implementation of NSEERS, including the following:

1. All policy directives or guidance issued to officials about implementation of NSEERS, including the role of the FBI in conducting national security background checks of registrants;
2. An explanation of why certain INS District Offices detained persons with pending status-adjustment applications;
3. All policy directives or guidance issued to officials about making public statements or disclosures about these individuals; and
4. A full explanation of how information gathered during interviews of registrants will be stored, used, or transmitted to other federal, state, or local agencies.

We further request that you release information about individuals taken into custody as soon as possible, including the following:

5. The identity of each individual who attempted to register pursuant to NSEERS but was taken into custody, including the individual's name, citizenship status, and place of birth;
6. The date of arrest of each detainee;
7. The date charges, if any, were brought against each detainee;
8. The charges brought, if any, against each detainee and, if no charges were brought, an explanation of why the individual was taken into custody;
9. The basis for continuing to detain those individuals who have been cleared of any connection with terrorism but are still in detention;
10. The identity of and contact information for any lawyer representing any detainee, including names, addresses, and phone numbers; and
11. The identity of any detainee who is not represented by counsel.

The Department of Justice should aggressively investigate and prevent future terrorist attacks, but should at the same time act with constitutional restraint. The Department of Justice has a responsibility to release sufficient information about the special registration program and the detainees to allow Congress and the American people to decide whether the Department has acted appropriately and consistent with the Constitution.

In addition, we urge you to suspend further implementation of NSEERS pending congressional review. It is imperative that you take steps to reassure Congress and the American people that this special registration program is not a detention program falling just short of widespread internment of Arabs and Muslims. We further urge you to take all necessary steps to ensure that the fundamental constitutional rights of individuals already detained are protected, including access to counsel.

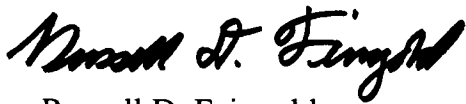
Times of crisis are the true test of a democracy. Our nation still bears the scars of

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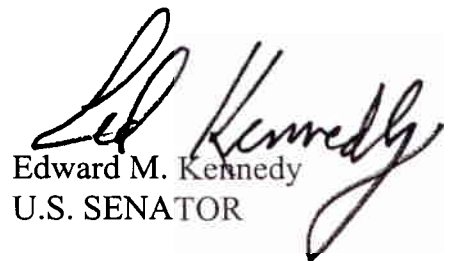
an earlier crisis when our government went too far by detaining Japanese, German, and Italian Americans based on their race, ethnicity, or national origin. We should not repeat these painful mistakes.

We look forward to your response.

Sincerely,



Russell D. Feingold
U.S. SENATOR



Edward M. Kennedy
U.S. SENATOR



John Conyers, Jr.
U.S. REPRESENTATIVE